

(i) The holder may file a written response that shows cause why the proposed action should not be taken within 30 days of receipt of notice of the proposed action.

(ii) After considering the holder's written response, or after 30 days have passed without response since receipt of the notice, PHMSA will notify the holder in writing of the final decision with a brief statement of reasons.

(3) If necessary to avoid a risk of significant harm to persons, property, or the environment, PHMSA may in the notification declare the proposed action immediately effective.

(4) Unless otherwise specified, the terms and conditions of a corrective action order, compliance order, or other order applicable to a pipeline facility covered by a special permit will take precedence over the terms of the special permit.

(5) A special permit holder may seek reconsideration of a decision under paragraph (h) of this section as provided in paragraph (i) of this section.

(i) Can a denial of a request for a special permit or a revocation of an existing special permit be appealed? Reconsideration of the denial of an application for a special permit or a revocation of an existing special permit may be sought by petition to the Associate Administrator. Petitions for reconsideration must be received by PHMSA within 20 calendar days of the notice of the grant or denial and must contain a brief statement of the issue and an explanation of why the petitioner believes that the decision being appealed is not in the public interest. The Associate Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. The Associate Administrator's decision is the final administrative action.

(j) Are documents related to an application for a special permit available for public inspection? Documents related to an application, including the application itself, are available for public inspection on regulations.gov or the Docket Operations Facility to the extent such documents do not include information exempt from public disclosure under 5 U.S.C. 552(b). Applicants

may request confidential treatment under part 7 of this title.

[73 FR 16568, Mar. 28, 2008, as amended at 74 FR 2893, Jan. 16, 2009]

PART 191—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; ANNUAL REPORTS, INCIDENT REPORTS, AND SAFETY-RELATED CONDITION REPORTS

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AUTHORITY: 49 U.S.C. 5121, 60102, 60103, 60104, 60108, 60117, 60118, and 60124; and 49 CFR 1.53.

§ 191.1 Scope.

(a) This part prescribes requirements for the reporting of incidents, safety-related conditions, and annual pipeline summary data by operators of gas pipeline facilities located in the United States or Puerto Rico, including pipelines within the limits of the Outer Continental Shelf as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(b) This part does not apply to—

(1) Offshore gathering of gas in State waters upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream;

(2) Pipelines on the Outer Continental Shelf (OCS) that are producer-operated and cross into State waters

without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the Administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9.

(3) Pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator; or

(4) Onshore gathering of gas outside of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

[Amdt. 191-5, 49 FR 18960, May 3, 1984, as amended by Amdt. 191-6, 53 FR 24949, July 1, 1988; Amdt. 191-11, 61 FR 27793, June 3, 1996; Amdt. 191-12, 62 FR 61695, Nov. 19, 1997; Amdt. 191-15, 68 FR 46111, Aug. 5, 2003; 70 FR 11139, Mar. 8, 2005]

§ 191.3 Definitions.

As used in this part and the PHMSA Forms referenced in this part—

Administrator means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate

Gas means natural gas, flammable gas, or gas which is toxic or corrosive;

Incident means any of the following events:

(1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and

(i) A death, or personal injury necessitating in-patient hospitalization; or

(ii) Estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more.

(2) An event that results in an emergency shutdown of an LNG facility.

(3) An event that is significant, in the judgement of the operator, even though it did not meet the criteria of paragraphs (1) or (2).

LNG facility means a liquefied natural gas facility as defined in § 193.2007 of part 193 of this chapter;

Master Meter System means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents;

Municipality means a city, county, or any other political subdivision of a State;

Offshore means beyond the line of ordinary low water along that portion of the coast of the United States that is in direct contact with the open seas and beyond the line marking the seaward limit of inland waters;

Operator means a person who engages in the transportation of gas;

Outer Continental Shelf means all submerged lands lying seaward and outside the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Person means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

Pipeline or *Pipeline System* means all parts of those physical facilities through which gas moves in transportation, including, but not limited to, pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.

State includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;